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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,066	06/29/2001	Kosar Jaff	13768.211	9459

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EXAMINER

LAYE, JADE O

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/896,066

Applicant(s)

JAFF ET AL.

Examiner

Jade O. Laye

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

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### *Response to Arguments*

1. Applicant's arguments, dated 8/29/05 have been considered but are moot in view of the new ground(s) of rejection. Accordingly, **THIS ACTION IS MADE FINAL**.
2. Applicant's amendments, dated 8/29/05 have been entered and made of record.
3. Due to Applicant's amended Claims, the objections applied in the previous non-final action are hereby withdrawn.

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 3, 5-10, 12, 14-18, 28-39, and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis et al* (US Pat. Pub. No. 2005/0028208) in view of *Allport*. (US Pat. No. 6,906,696).

As to claim 1, *Ellis* discloses a hand-held device, which provides users with access to television systems from remote locations. More specifically, the system of *Ellis* comprises a bi-directional network and a electronic programming guide ("EPG"), which is displayed on said hand-held device wherein the user is allowed to select, schedule, and send events to television systems. (Abstract ; Pars. [0010-0015, 0093, & 0094]). But, *Ellis* fails to disclose the amended

limitation directed to authenticating a user of the remotely access device to the client system. However, within the same field of endeavor, *Allport* discloses a similar system wherein a hand held terminal is operable to authenticate multiple users to a client system. (Abstract; Col. 1, Ln. 27-33, 49-51, 57-Col. 2, Ln. 2, 25-39; Col. 8, Ln. 49-64). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Ellis* and *Allport* to provide a method of securely logging on multiple hand held device users.

Claim 10 corresponds to the method claim 1. Thus, it is analyzed and rejected as previously discussed.

As to Claim 3, *Ellis* further discloses the system may poll the user television equipment or hand-held device via the use of authorization techniques. (Par. [0007, 0070, & 0186]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 3.

Claim 12 corresponds to the method claim 3. Thus, it is analyzed and rejected as previously discussed.

As to claim 5, *Ellis* further teaches that supplemental data related to programming can be provided (i.e., associated with an event). (Pars. [0029, 0067, & 0154]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 5.

Claim 14 corresponds to the method claim 5. Thus, it is analyzed and rejected as previously discussed.

As to claim 6, *Ellis* further teaches that programs can be canceled (i.e., unselected) after being selected. (Par. [0219]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 6.

Claim 15 corresponds to the method claim 6. Thus, it is analyzed and rejected as previously discussed.

As to claim 7, *Ellis* further teaches a user can set preferences for a number of guide features such as recording, canceling events, and locking/unlocking events (i.e., parental controls). (Par. [0014, 0015, & 0219]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 7.

Claims 16, 44, and 47 correspond to the method claim 7. Thus, each is analyzed and rejected as previously discussed.

As to claim 8, *Ellis* further teaches the system can format data (i.e., communications construct encompasses data formatting) for the hand-held device. (Par. [0149 & 0150]). In paragraph 13 of the Specification, Applicant states “In some instances, the access device uses a device service *that formats the program guide data...*”. Accordingly, the Examiner broadly interprets *Ellis*’s communication construct to denote Applicant’s “device service.” Therefore, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 8.

Claim 42 corresponds to the method claim 8. Thus, it is analyzed and rejected as previously discussed.

As to claim 9, *Ellis* further teaches the system utilizes an authorization technique and formats (i.e., communications construct) the retrieved EPG for use in the hand-held device. (Pars. [0007, 0070, 0149, 0150, & 0186]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 9.

Claims 18 and 46 correspond to the method claim 9. Thus, each is analyzed and rejected as previously discussed.

As to Claim 28, *Ellis* further teaches the set top box can be connected via a cable modem or any other communication link. (Par. [0086]). The remainder of the limitations recited in Claim 19 are combinations of limitations recited in Claims 1, 5, and 9. In so far as they correlate, Claim 19 is analyzed and rejected as discussed therein.

Claim 34 corresponds to Claim 28. Thus, it is analyzed and rejected accordingly.

Claim 29 contains limitations which were encompassed under the rejection of Claim 1. Thus, it is analyzed and rejected as discussed therein.

Claim 35 corresponds to Claim 29. Thus, it is analyzed and rejected accordingly.

As to claim 30, *Ellis* further teaches the hand-held device can be a PDA or other hand-held device. (Pars. [0092]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 30.

Claim 36 corresponds to the method claim 30. Thus, it is analyzed and rejected as previously discussed.

The limitations of claim 31 are encompassed within the limitations of claim 9. Thus, it is analyzed and rejected as discussed therein.

Claim 37 corresponds to the method claim 31. Thus, it is analyzed and rejected as previously discussed.

Claims 32 and 33 are encompassed within the limitations of claim 3. Thus, each is analyzed and rejected as discussed therein.

Claims 38 and 39 correspond to the method claims 32 and 33, respectively. Thus, each is analyzed and rejected as previously discussed.

As to Claim 45, *Ellis* further teaches a program previously selected for recording can be subsequently canceled. (Par. [0219]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 45.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 4, 13, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis* in view of *Allport* as discussed under Claim 1, and further in view of Herrington *et al.* (WO 00/78050).

Claim 4 recites the method of claim 1, wherein the step for retrieving guide data comprises steps for: displaying the guide on the access device; and displaying previously scheduled events on access device. As discussed above, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 1, and *Ellis* further teaches the programming guide is displayed on the access device (i.e., remote terminal). (as discussed under cited portions used to reject claim 1). But, *Ellis* fails to specifically disclose the remaining limitation of claim 4. However, within the same field of endeavor, Herrington *et al* disclose a similar system in which the programming guide displays past events. (Pg. 35, Ln. 15-33 thru Pg. 37, Ln. 1-27). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicants invention to combine the systems of *Ellis*, *Allport*, and Herrington in order to provide a remote access system capable of displaying past events, thereby supplying the user with a more exhaustive program listing.

Claims 13 and 43 correspond to the method claim 4. Thus, each is analyzed and rejected as previously discussed.

6. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis et al* in view of *Allport* as discussed under Claim 1, and further in view of *Artigalas et al.* (US Pat Pub. No. 2001/0014206).



Claim 48 recites the method of claim 48, wherein the step for selecting an event further comprises a step for deleting previously recorded programming content. As discussed above, the combined systems of *Ellis* and *Allport* disclose all limitations of claim 1, but fail to specifically recite the limitations of claim 27. However, within the same field of endeavor, *Artigalas et al* disclose a similar system in which the user is allowed to delete previously recorded programming. (Abstract ; Par. [0006 & 0049]). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of *Ellis*, *Allport*, and *Artigalas* in order to provide a system, which allows a consumer to build a personal video and/or audio library.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye  
September 22, 2005.



VIVEK SRIVASTAVA  
PRIMARY EXAMINER